

March 25, 2014

BY ELECTRONIC FILING

Hon. Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, NY 10007

Re: *Uni-World Capital, L.P., et al. v. Preferred Fragrance, Inc., et al.*, Index No. 13-cv-7204

Dear Judge Engelmayer:

This firm represents Plaintiffs Uni-World Capital, L.P., Uni-World Capital AIV, L.P., Fragrance Holdings, LLC, and Fragrance Acquisitions, LLC ("Plaintiffs") in the above-captioned action. I write to bring to the Court's attention issues that have arisen with respect to the early discovery ordered by the Court at the hearing on March 14, 2014 and to request the Court's assistance in obtaining documents that have been subpoenaed and setting a firm deposition schedule.

The background for these issues is as follows: at the March 14 hearing, the Court authorized early and expedited discovery permitting Plaintiffs to issue certain document and/or deposition subpoenas to nonparties and directed that they be issued by March 17, which they were. The Court further set dates for the depositions of parties, including the April 3 date for Ezriel Polatsek's deposition. Last Friday, the Court denied Mr. Polatsek's motion to postpone his deposition and, instead, gave him the option of going forward on April 3 or March 27. He elected to proceed on March 27. Commensurate with the expedited nature of the discovery that the Court had directed, Plaintiffs designed a schedule requiring that documents be produced yesterday at 5:00 p.m. and depositions of the non-parties to occur between March 26 and March 28. In order to avoid delay, Plaintiffs also contacted the nonparties (other than Mr. Polatsek's employer, Exceed LLC and his brother's company, Ouleaf, Inc.), to make clear that they should raise any issues with the subpoenas as early as possible rather than waiting until the time that documents were due.

In response to our subpoenas, Plaintiffs have not received a single document. With the exception of Wilhelmina, none of the subpoenaed non-parties have even interposed written responses or objections. Most egregiously, Mr. Polatsek's own employer, Exceed LLC, and his brother's company, Ouleaf, Inc. have not responded or communicated with Plaintiffs at all with

respect to our subpoenas; they have simply ignored the subpoenas.¹ We therefore request an order that the non-parties who have not responded to the subpoenas be ordered to produce all responsive non-privileged documents by no later than 5:00 p.m. on Thursday, March 27.²

Further, because none of the nonparties have yet produced documents, Plaintiffs are obviously not the position to proceed with depositions on the schedule that we (and the Court, as to Mr. Polatsek) had set. Accordingly, we ask that the Court order that depositions go forward on the following schedule:

March 31 at 9:00 a.m.	Anna Uban (QNY Creative) ³
March 31 at 1:00 p.m.	Ezra Aini (Makari de Suisse) ⁴
April 1 at 10:00 a.m.	Abraham Polatsek
April 2 at 1:00 p.m. (or such other time mutually-agreed upon by all parties)	Wilhelmina ⁵
April 3 at 10:00 a.m. (or such time as the Court may direct)	Ezriel Polatsek ⁶

I sincerely regret having to trouble the Court with these discovery matters. But the non-compliance with our subpoenas – particularly by the parties closely associated with Mr. Polatsek, Exceed LLC and Ouleaf Inc. – has made it impossible to conduct the discovery directed by the Court within the timeframe discussed at March 14 hearing, without the Court's assistance.

Respectfully submitted,


Jonathan L. Hochman

¹ We have requested contact information for Exceed LLC and Ouleaf, Inc. from Mr. Polatsek's counsel and have received no response.

² An order requiring production of documents by Thursday at 5:00 p.m. should not present a problem with respect to the subpoena recipients with whom we have been in contact. Plaintiffs have communicated with an attorney representing Ezra Aini, Makari de Suisse, Anna Urban and QNY Creative, who has indicated that he would produce documents by tomorrow. Furthermore, counsel for Wilhelmina has agreed to produce documents by Thursday at 5 p.m.

³ Ms. Urban has agreed to this time although one of Mr. Polatsek's attorneys had indicated a conflict with this time.

⁴ Mr. Aini has agreed to this time.

⁵ Wilhelmina is in the process of confirming the availability of its witness.

⁶ While the Court's March 21 Order gave Mr. Polatsek the option of proceeding on March 27, as indicated above, that is not possible because Plaintiffs have not yet received any documents.

cc: Counsel of record (*by ECF*)
Solomon Tyrnauer (*by Federal Express*)
Ouleaf, Inc. (*by hand*)
Abraham Polatsek, c/o Ouleaf, Inc. (*by hand*)
Exceed LLC, c/o Ezriel Polatsek, c/o Goldberg & Rimberg PLLC (*by ECF*)
Ali Grace Marquart, Esq., on behalf of Wilhelmina (*by e-mail*)
Eyal Eisig, Esq., on behalf of Ezra Aini, Makari de Suisse, Anna Urban and QNY
Creative (*by e-mail*)